

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	Crim. No. 1:07CR110HSO-RHW
	§	
ROTHAEL K. WITHERSPOON	§	

**ORDER DENYING DEFENDANT'S MOTION
FOR REDUCTION OF SENTENCE**

BEFORE THE COURT is Defendant's Motion for Reduction of Sentence Based on Retroactive Guideline Amendment filed in the above captioned cause on September 15, 2008 [21-1]. Defendant asserts that he is entitled to a further reduction in his sentence based upon recent amendments to the Sentencing Guidelines applicable to offenses involving cocaine base, or "crack".

The Government has filed its Response in Opposition [22-1] stating that because Defendant was sentenced after the guideline amendments in November of 2007, he has already received the benefit of the crack reduction.

Having considered the Motion and the pleadings on file, the Court agrees with the position of the Government. Because Defendant was sentenced on June 25, 2008, after the passage of the guideline amendments, he has already received the benefit of the amendments and is therefore not entitled to any reduction in his sentence.

IT IS, THEREFORE, ORDERED AND ADJUDGED that Defendant's Motion for Reduction of Sentence Based on Retroactive Guideline Amendment

pursuant to 18 U.S.C. § 3582 (C)(2) filed September 15, 2008 [21-1], should be and hereby is **DENIED**.

SO ORDERED AND ADJUDGED, this the 17th day of October, 2008.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE